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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,409	03/16/2004	Paul N. Stoving	08215-540001 / P03-026853	3843
26171	7590	11/14/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			FISHMAN, MARINA	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,409

Applicant(s)

STOVING ET AL.

Examiner

Marina Fishman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 18, 22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 8 and 22 is/are allowed.
- 6) ☒ Claim(s) 18, 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General status

1. This is a new Final Action on the Merits (The previous Final rejection (dated 04/03/2006) is hereby vacated). Claims 1- 5, 8, 18, 22 and 24 - 28 are pending in the case and are being examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant should clarify to what encapsulating material is referred to in Claim 25, is it to an encapsulating material introduced in Claim 18 or in Claim 24.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18, 21 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Pflanz [US 3,849,617].

Pflanz disclose a vacuum switching device comprising:

- a vacuum interrupter [10];

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- a hollow housing adjacent to the vacuum interrupter [part of elements 11 and 14, Figure 1];
- a seal [11,14] provided around the vacuum interrupter and the hollow housing, the seal defining a cavity [71,72, 23] within the hollow housing; and
- a tube [24] provided through the seal [14] and including cured liquefied encapsulation material to block the passage of air between an exterior of the seal and cavity [Column 2, lines 60 - 65].

Regarding Claim 21, since the tube [24], disclosed by Pflanz, is sealed after evacuation, the diameter of the sealed tube will be small enough not to allow liquefied encapsulation material from outside of the vacuum switching device. Regarding Claim 26, Pflanz discloses an operating rod [27].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Pflanz [US 3,849,617] in view of Kumbera et al. [US 4,168,414].

Regarding Claim 24, Pflanz discloses the tube [24, Figure 1] such that a first end

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of the tube accesses the cavity and a second end of the tube accesses an exterior of the seal, however does not disclose an encapsulation material provided around the vacuum interrupter, the hollow housing and the seal. Kumbera et al. disclose an encapsulation material provided around the vacuum interrupter, the hollow housing and the seal [23, Figure 3]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the encapsulation material provided around the vacuum interrupter, the hollow housing and the seal in Pflanz, as suggested by Kumbera et al., in order to form an integrated self-supporting structure [Column 5, lines 60 –65]. Regarding Claim 25, Pflanz discloses the instant claimed invention except for an encapsulating material being epoxy resin. The selection of a particular material for the encapsulation would be an obvious matter of design choice since it is been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability. [In re Leshin, 125 USPQ 416].

Allowable Subject Matter

8. Claims 1 – 5, 8, 27 and 28 are allowed.
9. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed 09/25/2006 have been fully considered but they are not persuasive.

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With regard the arguments related to Pflanz (Claims 18, 21, and 24-26), the Applicant has argued that Pflanz does not describe or suggest " a tube [24] includes cured liquefied encapsulation material to block the passage of air between an exterior of the seal and a cavity." The Examiner respectfully disagrees. The tube [24] of Pflanz, is intended to transfer air between interior and exterior space and as indicated in column 2, lines 60 –65, is well known in the art, and also the tube is sealed by brazing material that works as an encapsulation material.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman
November 1, 2006


ELVIN ENAD
SUPERVISORY PATENT EXAMINER
08-NOV-06